

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MBABANE

INFO AMEMBASSY GABORONE

AMEMBASSY MASERU

C O N F I D E N T I A L STATE 301392

E.O. 11652: GDS

TAGS: SHUM, MASS, SU

SUBJECT: CLEARANCE OF DRAFT HUMAN RIGHTS OBSERVANCE REPORT

REF: STATE 231122

1. SECTION 5028 OF THE FOREIGN ASSISTANCE ACT OF 1961 AS
AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE ACT AND
ARMS EXPORT CONTROL ACT OF 1976 STATES IN PARAGRAPH 502B(8)
THAT THE "SECRETARY OF STATE SHALL TRANSMIT TO THE CONGRESS,
AS PART OF THE PRESENTATION MATERIALS FOR SECURITY ASSIST-
ANCE PROGRAMS PROPOSED FOR EACH YEAR , A FULL AND COMPLETE
REPORT...WITH RESPECT TO PRACTICES REGARDING THE OBSERVANCES
OF AND RESPECT FOR INTERNATIONALLY RECOGNIZED HUMAN RIGHTS
IN EACH COUNTRY PROPOSED AS A RECIPIENT OF SECURITY ASSIS-
TANCE". PARAGRAPH (D) (2) OF SECTION 502B AS AMENDED
DEFINES "SECURITY ASSISTANCE" TO INCLUDE SECURITY SUPPORTING
ASSISTANCE, FMS, CERTAIN COMMERCIAL SALES, CREDITS AND
OTHER PROGRAMS. THE FULL TEXT OF THE AMENDED SECTION 502B
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WAS TRANSMITTED BY THE REFTEL. SWAZILAND MAY BE PROPOSED

AS A SECURITY SUPPORTING ASSISTANCE RECIPIENT FOR FY 78.

2. AS INDICATED IN THE REFTEL, THE DEPARTMENT HAS BEEN COLLECTING AND PREPARING INFORMATION ON THE HUMAN RIGHTS

SITUATIONS IN SECURITY ASSISTANCE RECIPIENT COUNTRIES IN ANTICIPATION OF SUBMITTING IT TO CONGRESS EARLY NEXT YEAR AS PART OF THE CONGRESSIONAL PRESENTATION DOCUMENT (CPO) ON SECURITY ASSISTANCE. HUMAN RIGHTS REPORTING FROM OVERSEAS POSTS, INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS SUCH AS THE INTERNATIONAL COMMISSION OF JURISTS, AMNESTY INTERNATIONAL AND FREEDOM HOUSE, REPORTS BY INTERNATIONAL ORGANIZATIONS AND CONGRESSIONAL HEARINGS ON HUMAN RIGHTS HAVE BEEN COMPILED IN A DRAFT HUMAN RIGHTS OBSERVANCE REPORT ON EACH SECURITY ASSISTANCE RECIPIENT COUNTRY. THE DRAFT REPORT ON SWAZILAND BEGINS AT PARA 7.

3. THE DRAFT REPORT FOLLOWS A STANDARD FORMAT CALLING FOR A DESCRIPTION OF THE POLITICAL AND LEGAL SITUATION IN THE COUNTRY, A DESCRIPTIVE STATEMENT OF ACTUAL OBSERVANCE OF RIGHTS AND FREEDOMS IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WITH SPECIFIC ATTENTION TO MATTERS SPECIFIED IN THE INCLUSION CLAUSE OF PARAGRAPH (D)(1) OF SECTION 502B AS AMENDED, AND A REFLECTION OF OTHER HUMAN RIGHTS REPORTING. THE TEXT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WAS TRANSMITTED TO THE FIELD AS AN ENCLOSURE TO 75 STATE A-1045.

4. THE DRAFT REPORT HAS BEEN PARTIALLY CLEARED IN THE DEPARTMENT AND IS BEING USED INTERNALLY IN THE CURRENT REVIEW OF PROPOSED PROGRAMS FOR FY 1978. BEFORE FINAL CLEARANCE IN THE DEPARTMENT CAN BE OBTAINED FOR THE DRAFT REPORT'S INCLUSION IN THE CPD AS AN UNCLASSIFIED DOCUMENT (WHICH MAY BE PUBLICLY DISCLOSED IF CONGRESS SO CHOOSES), THE DEPARTMENT REQUESTS THE EMBASSY TO CAREFULLY REVIEW, CORRECT, UPDATE AND CLEAR THE DRAFT. (UNTIL THE DRAFT IS CLEARED FOR RELEASE, HOWEVER, IT REMAINS A WORKING DOCUMENT CLASSIFIED CONFIDENTIAL UNDER THE PROVISIONS OF EXECUTIVE ORDER 11652.)
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5. IN CONDUCTING ITS REVIEW, THE EMBASSY SHOULD ENSURE THAT THE INFORMATION IN THE DRAFT CONSTITUTES A "FULL AND COMPLETE REPORT--WITH RESPECT TO PRACTICES REGARDING THE OBSERVANCE OF HUMAN RIGHTS" IN SWAZILAND, AS REQUIRED IN SECTION 5028 (B) AS AMENDED.

6. REQUESTED ACTION: THE EMBASSY IS REQUESTED TO REVIEW

THE ENCLOSED DRAFT AND PROVIDE COMMENTS, SUGGESTED REVISIONS, UPDATING INFORMATION, ADDITIONAL INFORMATION IN SATISFACTION OF THE REQUIREMENTS OF SECTION 502B (B) AS AMENDED, AND CLEARANCE BY TELEGRAM TO REACH THE DEPARTMENT NO LATER THAN DECEMBER 14.

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7. TEXT OF DRAFT REPORT IS AS FOLLOWS:

I. POLITICAL SITUATION - SWAZILAND ACHIEVED INDEPENDENCE FROM GREAT BRITAIN IN 1968 AS A CONSTITUTIONAL MONARCHY UNDER KING SOBHUZA II.

IN THE FIRST POST-INDEPENDENCE ELECTION HELD IN MAY 1972, KING SOBHUZA'S PARTY WON 75 PERCENT OF THE VOTE. THE OPPOSITION NGWANE NATIONAL LIBERATION CONGRESS (NNLC), WON 20 PERCENT OF THE VOTE AND GAINED THREE SEATS IN THE HOUSE OF ASSEMBLY. ON APRIL 12, 1973, THE KING ABOLISHED BOTH THE CONSTITUTION AND THE PARLIAMENT AND ASSUMED ALL GOVERNMENTAL POWERS. HE STATED THAT HE CONSIDERED OPPOSITION PARTIES CONTRARY TO SWAZI TRADITION. IN SEPTEMBER 1973 THE KING ANNOUNCED THE FORMATION OF A ROYAL CONSTITUTIONAL COMMISSION, WHICH WOULD RECOMMEND A NEW CONSTITUTION MORE RELEVANT TO SWAZI TRADITION, BUT, TO DATE NO NEW CONSTITUTION HAS RESULTED.

THE COUNTRY IS POLITICALLY AND ECONOMICALLY SENSITIVE TO NEIGHBORING SOUTH AFRICA AND MOZAMBIQUE. IT IS A MULTIRACIAL HAVEN FOR REFUGEES FROM BOTH COUNTRIES. CROSS-BORDER POLITICAL ACTIVITY BY REFUGEES IN SWAZILAND HAS PROVOKED DETENTIONS BY THE GOVERNMENT.

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II. LEGAL SITUATION - SINCE THE 1973 ABOLITION OF THE CONSTITUTION, KING SOBHUZA II HAS RULED SWAZILAND AS KING-IN-COUNCIL, WITH THE ADVICE OF THE FORMER CABINET AND THE TRADITIONAL SWAZI NATIONAL COUNCIL. THERE ARE NO LEGAL SAFEGUARDS CONCERNING INDIVIDUAL RIGHTS AND FREEDOMS CURRENTLY IN EFFECT. THE JUDICIARY CONSISTS OF AN APPEAL COURT, A HIGH COURT, AND SUBSIDIARY COURTS. JUDGES ARE APPOINTED BY THE KING.

III. ACTUAL OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: DESPITE THE ABSENCE OF LEGAL SAFEGUARDS THERE

HAS NOT BEEN ANY SERIOUS OR WIDESPREAD DEGRADATION OF
RESPECT FOR LIFE, LIBERTY AND SECURITY OF THE PERSON.

ARTICLE 5: THERE IS NO EVIDENCE THAT PERSONS IN SWAZI-
LAND ARE SUBJECTED TO TORTURE OR TO CRUEL, INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT. THERE IS NO EVIDENCE
THAT A NNLC ADHERENTS HAVE BEEN MISTREATED DURING PERIODS
OF DETENTION.

ARTICLE 8: ACCESS IS AVAILABLE TO TRIBUNALS FOR REMEDIES
IN CASES INVOLVING VIOLATIONS OF HUMAN RIGHTS.

ARTICLE 9: SOME MEMBERS OF THE BANNED OPPOSITION PARTY
AND POLITICAL REFUGEES FROM NEIGHBORING COUNTRIES HAVE
BEEN JAILED FOR 60-DAY PERIODS, THE MAXIMUM ALLOWED
UNDER SWAZI LAW, FOR VIOLATING THE BAN ON POLITICAL
ACTIVITY.

ON AT LEAST THREE SEPARATE OCCASIONS, DR. AMBROSE ZWANE,
THE LEADER OF THE NNLC, HAS SERVED 60-DAY TERMS FOR
ALLEGEDLY BREAKING THE BAN ON POLITICAL ACTIVITY CONCERN-
ING SWAZILAND'S FOREIGN POLICY. AI IS ALSO CONCERNED
ABOUT THE ALLEGED ABDUCTION IN SWAZILAND OF POLITICAL
REFUGEES BY SOUTH AFRICAN SECURITY AGENTS.

IN 1973 THE REVIEW OF THE INTERNATIONAL COMMISSION OF
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JURISTS REPORTED THAT THE ABOLITION OF THE CONSTITUTION
APPEARED TO BE A "SERIOUS SETBACK," OBSERVING THAT
"SWAZILAND HAS ALWAYS BEEN REGARDED AS ONE OF THE MOST
ENLIGHTENED COUNTRIES IN AFRICA IN TERMS OF CIVIL RIGHTS
AND RACE RELATIONS."

FREEDOM HOUSE RANKS SWAZILAND AS "PARTLY FREE". ROBINSON

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